

110TH CONGRESS
1ST SESSION

H. R. 3813

To amend the Truth in Lending Act to prohibit mortgage originators from receiving incentive compensation that varies with the terms of a residential mortgage loan and from steering consumers to residential mortgage loans that are not in the consumers' best interest, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2007

Mr. MURPHY of Connecticut introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to prohibit mortgage originators from receiving incentive compensation that varies with the terms of a residential mortgage loan and from steering consumers to residential mortgage loans that are not in the consumers' best interest, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mortgage Kickback
5 Prevention Act of 2007”.

1 **SEC. 2. ANTI-STEERING.**

2 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
 3 ing Act (15 U.S.C. 1631 et seq.) by inserting after section
 4 129 the following new section:

5 **“§ 129A. Anti-steering requirement**

6 “(a) PROHIBITION ON STEERING INCENTIVES.—No
 7 mortgage originator may receive from any person, and no
 8 person may pay to any mortgage originator, any incentive
 9 compensation (including yield spread premium) that ac-
 10 crues directly or indirectly to the mortgage originator that
 11 is based on, or varies with, the terms of any residential
 12 mortgage loan.

13 “(b) REGULATIONS.—

14 “(1) AUTHORIZED.—The Board and the Sec-
 15 retary, in consultation with the Commission, may
 16 prescribe regulations to—

17 “(A) further define the terms ‘incentive
 18 compensation’ and ‘terms of any residential
 19 mortgage loan’; and

20 “(B) provide exceptions to the application
 21 of paragraph (1), or additional requirements,
 22 with respect to incentive compensation.

23 “(2) CONDITIONS.—In prescribing any regula-
 24 tions that permit an exception to paragraph (1) or
 25 adds additional requirements, the Board and the
 26 Secretary shall ensure that such regulations—

1 “(A) promote the interest of the consumer
2 in obtaining—

3 “(i) the best terms for a residential
4 mortgage loan for which the consumer
5 qualifies; and

6 “(ii) useful information on the nature
7 of the residential mortgage loan and the
8 relationship of the consumer with the
9 mortgage originator; and

10 “(B) prohibit mortgage originators from
11 steering, counseling, or directing a consumer
12 into any residential mortgage loan that is not in
13 the consumer’s best interest, based on informa-
14 tion known by, or provided in good faith to, the
15 originator, the characteristics of the property
16 that secures or will secure the extension of
17 credit, and the loan terms for which the con-
18 sumer qualifies.

19 “(c) DEFINITIONS.—For purposes of this section, the
20 following definitions shall apply:

21 “(1) MORTGAGE ORIGINATOR.—The term
22 ‘mortgage originator’—

23 “(A) means a person who—

24 “(i) takes a residential mortgage loan
25 application;

1 “(ii) assists a consumer in obtaining
2 or applying to obtain a residential mort-
3 gage loan; or

4 “(iii) offers or negotiates terms of a
5 mortgage loan, for direct or indirect com-
6 pensation or gain, or in the expectation of
7 direct or indirect compensation or gain;

8 “(B) includes any person who represents
9 to the public, through advertising or other
10 means of communicating or providing informa-
11 tion (including the use of business cards, sta-
12 tionery, brochures, signs, rate lists, or other
13 promotional items), that such individual can or
14 will provide or perform any of the activities de-
15 scribed in subparagraph (A); and

16 “(C) does not include any person who is
17 not otherwise described in subparagraph (A) or
18 (B) and who performs purely administrative or
19 clerical tasks on behalf of a person who is de-
20 scribed in any such subparagraph.

21 “(2) RESIDENTIAL MORTGAGE LOAN.—The
22 term ‘residential mortgage loan’ means any con-
23 sumer credit transaction that is secured by a mort-
24 gage or deed of trust on residential real estate that
25 includes a dwelling.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 2 of the Truth in Lending Act is amended
3 by inserting after the item relating to section 129 the fol-
4 lowing new item:

“129A. Anti steering requirement.”.

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